

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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| In the Matter of |) | |
| |) | |
| Revision of the Commission's Rules to |) | CC Docket No. 94-102 |
| Ensure Compatibility with Enhanced 911 |) | WT Docket No. 03-76 |
| Emergency Calling Systems |) | |

REPLY OF SPRINT NEXTEL CORPORATION

Pursuant to 47 C.F.R. § 1.45(c), Sprint Nextel Corporation ("Sprint Nextel"), submits the following Reply to Dane County ("County") and the City of Middleton ("City") Oppositions to Sprint Nextel's Certification of PSAP Non-Readiness. Both the City and County argue that they are ready to receive Phase II service and that the Commission's rules require Sprint Nextel to comply with their respective requests. Neither, however, addresses the central issue presented: It is not technically feasible to route the same call to two different PSAPs and Sprint Nextel cannot deploy service with conflicting PSAP call routing instructions.¹ Further, while the City and County have filed oppositions to Sprint Nextel's filing, this issue affects Phase II service for all carriers in the disputed area. FCC intervention is thus necessary to resolve the matter and expedite the provision of Phase II services to the areas at issue.

I. Both PSAPs Claim that Sprint Nextel is Obligated to Deploy Phase II Service to them under 47 C.F.R. § 20.18(j)(2).

In their oppositions, both Dane County and the City of Middleton claim that Sprint Nextel is obligated to provide Phase II service to them under 47 CFR § 20.18(j)(2).² Specifically, both PSAPs state that they have met the prerequisites of Section 20.18(j)(2) and have submitted call routing spreadsheets to Sprint Nextel directing the company to route calls to

¹ Verizon Wireless and US Cellular are also unable to deploy to the disputed area. See Letter attached as Appendix A to Sprint Nextel's Certification of Non-Readiness.

² See City of Middleton Opposition at 2-3; Dane County Letter at 1.

their respective PSAP. Neither opposition, however, explains how Sprint Nextel should respond to the conflicting governmental instructions; nor do the filings explain how Sprint Nextel can deploy according to both requests.

The City asserts that Sprint Nextel's readiness determination should depend on two simple questions, "[i]s the requesting PSAP technically capable of receiving Phase II services, and is it in fact a non-secondary PSAP in the Commission's registry?"³ If so, according to Middleton, "there is no basis under Section 20.18(j)(4) for the carrier to delay providing Phase II service to Middleton."⁴ Dane County, however, also claims to be ready to receive Phase II services and is also a primary PSAP in the FCC Register. Dane County states that it "has taken all required steps and worked with all carriers to deploy Enhanced 911 service throughout the County during the period of April 5 through May 10, 2006."⁵

Thus, Sprint Nextel is left with the same dilemma which prompted its original filing. Based on the representations of readiness provided by both parties, without an agreed upon call routing spreadsheet, Sprint Nextel cannot, as a technical matter, satisfy both requests. FCC interpretation is thus needed.

II. The Criteria for PSAP Readiness in Section 20.18(j)(2) are not Exhaustive.

Both PSAPs argue that Sprint Nextel's certification was inadequate because the rules do not identify submission of an agreed upon call routing spreadsheet as a necessary pre-condition for readiness.⁶ The City of Middleton asserts that "Sprint Nextel has...chosen to add a new condition to its provision of Phase II service,"⁷ while Dane County claims that "[t]here is no

³ City of Middleton Opposition at 4.

⁴ City of Middleton Opposition at 4.

⁵ Dane County Letter at 2.

⁶ See City of Middleton Opposition at 3-4; Dane County Letter at 1.

⁷ City of Middleton Opposition at 3-4.

requirement in the federal regulations for an agreed upon spreadsheet.”⁸ Neither party denies, however, that it is technically impossible to route to both locations and that Sprint Nextel cannot deploy service without an agreed upon call routing spreadsheet.

While Section 20.18(j)(2) sets out particular criteria to determine PSAP readiness, as a technical matter, there are additional steps a PSAP must take in order to be capable of receiving 911 calls. The inability of local jurisdictions to agree upon a call routing spreadsheet may not have been contemplated as a deployment issue when the FCC implemented Section 20.18(j)(2), but the fact remains that it is a prerequisite to deployment. The FCC expected parties, including PSAPs, to work cooperatively together to deploy service. Sprint Nextel has attempted to do so in this circumstance, but ultimately the PSAPs must provide the required information. In the absence of that, FCC involvement is needed to resolve the dispute.

III. Both Dane County and the City of Middleton are Designated as Primary PSAPs in the FCC’s Master Registry.

The City of Middleton attempts to use their primacy in the FCC’s PSAP registry as evidence that Phase II calls should be routed to them.⁹ According to the City, Sprint Nextel had “*prima facie* notice that the City of Middleton is not a secondary PSAP to Dane County.”¹⁰ This argument does not resolve the issue, however, because Dane County is also listed as a primary PSAP in the FCC’s PSAP registry.¹¹ Moreover, even if the City of Middleton’s designation as a primary PSAP is controlling, it would still not address Dane County’s claim that the City is not ready for deployment.

⁸ Dane County Letter at 2.

⁹ See City of Middleton Opposition at 4-5.

¹⁰ City of Middleton Opposition at 5.

¹¹ The FCC has not previously indicated that the PSAP registry should be used as a tool to assist carriers in determining the appropriate PSAP for routing calls. The Commission created the PSAP registry to “permit the Commission to track wireless E911 deployment...as well as assist E911 stakeholders in coordinating their deployment efforts.” See *Wireless Telecommunications Bureau Standardizes Carrier Reporting on Wireless E911 Implementation*, CC Docket 94-102, *Public Notice*, 18 FCC Rcd 11420 (WTB 2003).

IV. Sprint Nextel is Not in a Position to Resolve Questions of Law and Fact.

Each PSAP seeks to have Sprint Nextel resolve this jurisdictional dispute. As a factual matter, Dane County argues that the City of Middleton is not ready to receive Phase II service,¹² submitting a signed affidavit stating that “[t]he City of Middleton is not ready to receive P[hase] 2 service as it does not have an approved Emergency Service Number or Master Street Address Guide entries necessary for the carriers to route calls and provide information to Middleton.”¹³ For its part, the City of Middleton counters this factual allegation with its own certification that it is ready to receive Phase II service. The City insists that Dane County has an “unsubstantiated contention that Middleton is not ready to receive Phase II service.”¹⁴

Sprint Nextel is not a trier of fact and has no means to independently verify which claim is correct. If Sprint Nextel were to deploy to the City of Middleton, however, and disregard the affidavit submitted by Dane County, Sprint Nextel may subject itself to legal liability if the City was not in fact prepared to receive Phase II services and injury resulted.¹⁵

The City of Middleton also claims in its opposition that Sprint Nextel is required to deploy to them under Wisconsin law. The City states that it “has satisfied the requirements of Wisconsin law to opt out of Dane County’s PSAP service.”¹⁶ However, in a letter to Sprint Nextel dated March 14, 2006, Dane County disagreed, and claimed that Wisconsin law “does not give any particular municipality the right to “opt-out” and create its own wireless 911 PSAP without the consent of the primary PSAP.”¹⁷ Thus, both parties are asking Sprint Nextel to

¹² See Dane County Letter at 1-2.

¹³ Dane County Affidavit.

¹⁴ City of Middleton Opposition at 4.

¹⁵ See Dane County Affidavit.

¹⁶ Dane County Letter at 6.

¹⁷ A copy of that letter is attached as Exhibit A.

assume a role as an arbiter of Wisconsin law, which is an inappropriate task for Sprint Nextel to undertake.

Under these circumstances, the FCC should act to interpret the obligations of its rules and determine the appropriate PSAP to receive the calls. Sprint Nextel therefore requests that the Commission provide direction to all of the carriers whose Phase II implementation schedules have been delayed as a result of this dispute.

V. Conclusion

As discussed herein and in its original certification, Sprint Nextel remains ready to deploy service to the disputed area and can do so in a short period of time. Sprint Nextel and the other affected carriers, however, are unable to deploy service to two PSAPs at once. Sprint Nextel requires FCC direction regarding the manner in which the FCC wishes its rules applied.¹⁸

Respectfully submitted,

SPRINT NEXTEL CORPORATION

/s/ Luisa L. Lancetti

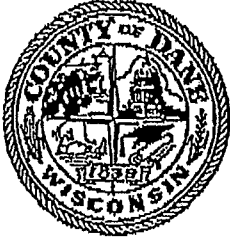
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¹⁸ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Order on Reconsideration*, FCC 02-318, ¶ 19 (rel. Nov.26, 2002)(“Recon. Order”).



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March 14, 2006

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Re: Letter from Sun Prairie regarding Phase I and Phase II
Wireless 911 Services

Dear Compliance Officer:

In a recent letter, the City of Sun Prairie wrote you regarding its attempts to become the wireless PSAP for 911 calls originating within that municipality. As you know, the Dane County Public Safety Communications Center is the primary wireless PSAP for Dane County and has been since 1993. It is Dane County's position that sec. 146.70(3m)(c)6a., Wis. Stats., does not give any particular municipality the right to "opt-out" and create its own wireless 911 PSAP without the consent of the primary PSAP. The plain language of the statute indicates that the primary PSAP is required to provide wireless 911 service and "is not required to serve" a municipality that has taken the statutorily required steps to ensure that there will be wireless 911 coverage to that municipality. The language that appears in bold clearly evinces a legislative intent that the primary PSAP (the Dane County Public Safety Communications Center) has the discretion to determine whether it will continue to serve a municipality regardless of any action that municipality has taken. Common sense also bears out such an interpretation.

As you are well aware, the technology does not allow cellular coverage to be turned on or off at city limits. In order to provide the City of Sun Prairie with the service it is demanding, a cellular provider would have to dedicate entire cell sectors to that municipality. Towers lying both inside and outside the geographic boundaries of Sun Prairie provide cellular service to Dane County citizens who do not reside in Sun Prairie.

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Dedicating those cell sectors to Sun Prairie (or any other municipality seeking to "opt out"), would result in wireless 911 calls emanating outside the geographic boundaries of that municipality being routed there rather than to the Dane County Public Safety Communications Center, the primary PSAP for those regions. Dane County would thus no longer be able to fulfill its responsibilities as the dedicated PSAP for the County, and the citizens affected would be denied the security of knowing their wireless 911 calls were being routed to the proper entity.

... The resolution passed by the City of Sun Prairie can have no force on citizens who do not live in that municipality, and Dane County will do whatever is necessary to ensure that its citizens who place cellular 911 calls will continue to have those calls directly routed to the Dane County Public Safety Communications Center. We believe that after considering the matter you will agree that Dane County's position is not only the logical conclusion that must be drawn, it is the legally correct one. However, should you decide otherwise, we ask that as a long time partner with Dane County, you would do us the courtesy of advising us well in advance of taking any action that may disrupt existing 911 cellular service within Dane County so that we may take steps to protect the interests of our citizens.

Sincerely,



Kristi A. Gullen
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